


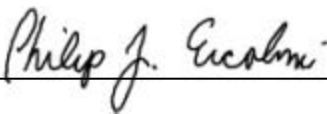
General Rules and Regulations For All Permit Granting Authorities

Chapter 1 of the Rules and Regulations of the Permit Granting Authorities

Date Adopted by Planning Board August 7, 2003

Attest:   
Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals: September 10, 2003

Attest:   
Philip Ercolini, Chairman of the Board of Appeals

**General Rules and Regulations For All Permit Granting Authorities**  
Chapter 1 of the Rules and Regulations of the Permit Granting Authorities

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## **General Rules and Regulations For All Permit Granting Authorities**

### **Chapter 1 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 1. INTRODUCTION**

##### **A. Purpose**

In accordance with the City of Somerville Code of Ordinances and the Massachusetts General Laws, certain bodies and/or administrators have been established and authorized to review, deliberate, make findings and determinations, and grant or deny zoning appeals and petitions. These bodies shall be known as Special Permit Granting Authorities (SPGAs), and are synonymous with the same term used in Chapter 40A of the Massachusetts General Laws, and with the term "Permit Granting Authority" also used in the referenced statute. This document herein establishes the Rules and Regulations for SPGAs serving the City of Somerville.

The Rules and Regulations of the Special Permit Granting Authorities are intended to serve as a guide for the actions of all permit granting authorities in the City of Somerville, with reference to zoning appeals and petitions, and other planning and zoning issues. The Rules and Regulations are also designed to facilitate the orderly and efficient conduct of business by these permit authorities by the specifying standard procedures to be used in their business affairs with the public.

##### **B. Organization and the "Principal Body" of the Rules and Regulations**

The Rules and Regulations are organized in several Chapters. Each SPGA will adopt its own general Rules and Regulations dedicated as a separate chapter herein. In addition, certain Chapters establish Rules pertaining to a specific type of permitting process, over which only one (1) SPGA governs. These rules will also be set forth as discrete Chapters, and be adopted only by the appropriate administering SPGA.

The following Chapters are the "principal body" of the Rules and Regulations and shall govern the actions of all SPGAs. These chapters are designed for adoption by all SPGAs:

Chapter 1 - General Rules and Regulations for All Permit Granting Authorities.

Chapter 2 - Rules and Regulations for Special Permit Petitions

Chapter 3 - Rules and Regulations for Inclusionary Housing.

##### **C. Adoption and Amendment**

As the Principal body of the Rules and Regulations, the Chapters listed immediately above shall take effect only upon the adoption by each and every SPGA duly authorized and appointed to serve within the City of Somerville. Adoption by the Zoning Board of Appeals (ZBA) shall be deemed to automatically include "adoption" of the same by any Zoning Administrator serving under the auspices of the of the ZBA as authorized by MGL Ch. 40A and the Somerville Zoning Ordinance (SZO). Approval of the above listed Chapters shall require an affirmative vote of four (4) members of each five (5) member SPGA, or two thirds vote of any SPGA having other than five (5) members. The "principal body" of these Rules and Regulations shall take effect upon adoption by all SPGAs.

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#### **Section 1 Introduction (cont.)**

Amendment(s) to the "principal body" Chapters of the Rules and Regulations may be proposed or sponsored by any member of the SPGA. Amendment(s) shall be made under the same procedures specified immediately above for adoption, requiring affirmation by each and every SPGA before taking effect.

#### **D. Recordation and Inspection by the Public**

At the beginning of each Chapter, a cover sheet shall be provided specifying which SPGAs adopted said Chapter, on what date(s), and attested to by the appropriate SPGA Chairperson, or by the senior administrative official if the SPGA is a zoning administrator or an agency or department of the City of Somerville.

Upon adoption, a true copy of the Rules and Regulations shall be filed in the office of the City Clerk, including any amendment(s). The Rules and Regulations shall be available for public inspection at the offices of the City Clerk, Inspectional Services, Board of Appeals, and Planning Board. A copy of the Rules and Regulations, or any individual Chapter thereof, may be purchased at the Office of the City for a nominal fee to cover publishing cost.

#### **Section 2. DEFINITIONS**

**Board of Appeals (ZBA)** The City of Somerville Zoning Board of Appeals, established in accordance with MGL Ch40A, Sec. 12, and with the City Code of Ordinances.

**ZBA Secretary** The Secretary to the Zoning Board of Appeals

**Housing Director** The Director of the Housing Division of the Office of Housing and Community Development

**IH** Inclusionary Housing units (see Chapter 3 of the Rules & Regulations)

**OHCD** The City of Somerville Office of Housing and Community Development

**Planning Board (PB)** The City of Somerville Planning Board, established in accordance with MGL Ch 41B, Secs. 81A-81J, and with the City Code of Ordinances

**Planning Director (or "Director")** The Executive of the Planning Board

**SPGA (Or "Permit Granting Authority")** Special Permit Granting Authority

**SZO** Zoning Ordinance of the City of Somerville

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### **Chapter 1 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 3. Designation of The Special Permit Granting Authorities**

As authorized under the Massachusetts General Laws, and in compliance with the Somerville City Code of Ordinances and Zoning Ordinance of the City of Somerville (known as SZO), any Appeal, petition or application related to the SZO or to decisions of its enforcing officers shall be presented to and heard before a special permit granting authority (SPGA).

Under the SZO adopted March 23, 1990, the SPGA in most cases is the Board of Appeals. In certain zoning districts and for certain forms of review the Planning Board serves as the SPGA. The following outlines the jurisdiction of each body as an SPGA.

##### **A. Board of Appeals (ZBA)**

The Board of Appeals (ZBA) is the SPGA for:

- 1) **Variances** - every petition for the relief by variance as provided by SZO Article 5 and MGL Chapter 40A, Section 10;
- 2) **Special Permit Applications** except where the Planning Board is designated as the SPGA (see below) - the ZBA serves as the SPGA in most cases of the petition for a special permit (SZO Articles 4 or 5); these include special permit with design review, special permit with site plan review; or planned unit development (SZO Article 16).
- 3) **Appeals by aggrieved parties of administrative or enforcement decisions** - any appeal of a person aggrieved by a decision of interpretation or enforcement action under the SZO (pursuant to MGL Chapter 40A, Section 8), except for an appeal of such an official under a minor site plan approval process established per SZO Article 5 (see Planning Board jurisdiction below);
- 4) **Comprehensive Permit Petitions** - the ZBA exercises jurisdiction over any such petition filed in accordance with MGL Chapter 40B, Secs. 2-23.

##### **B. Planning Board (PB)**

The Planning Board (PB) is the SPGA for:

- 1) **Special Permit Applications in the Business Park Assembly (BPA), Industrial Park Assembly (IPA), Planned Unit Development-A (PUD-A) and Planned Unit Development-B (PUD-B) zoning districts** - the PB exercise jurisdiction, within the above zoning districts, over any petition for a special permit (SZO Articles 4 or 5); these include special permit with design review, special permit with site plan review, or planned unit development (SZO Article 16);

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### **Chapter 1 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 3. Designation of The Special Permit Granting Authorities (cont)**

2) **Site Plan Approval** - any petition for site plan approval (SZO Article 5) and any appeal of a decision by an administrative official delegated to administer a minor site plan approval process established under SZO Article 5 and Chapter 6 of the Rules and Regulations.

#### **Section 4. Planning Board Report & Recommendations To The ZBA**

##### **A. PB Report is Normal Procedure**

The Board of Appeals will exercise jurisdiction as the SPGA for most appeals and petitions, but as a part of normal procedure the ZBA will expect a report and recommendation from the Planning Board on each case. Thus, the Planning Board will usually prepare a report and recommendation to the ZBA on all appeals or petitions over which the ZBA exercises jurisdiction as the SPGA, and deliver said report expeditiously. Planning Board recommendations to the ZBA shall be in the form of a written brief or report, and shall be filed in the ZBA office in an expeditious manner. Citizens may obtain a copy of the PB's report after it has been sent to ZBA.

##### **B. PB Report on Special Permits is Mandatory**

In cases where the ZBA serves as the SPGA for any form of special permit, the Planning Board shall review and prepare for a recommendation to the ZBA on every petition (application) for special permit in accordance with Chapter 2 of these Rules and Regulations.

##### **C. ZBA Use of PB Report**

The ZBA will normally delay any final action on a petition until it receives the PB's report, unless the PB report is not delivered in a timely fashion and/or delay would cause a lack of compliance with due process and the time constraints for review imposed by MGL Ch. 40A and the SZO. The ZBA should fully consider the materials presented in the PB report, and may utilize the reports findings, determinations, and the like in creating its own record of determination on a given case.

#### **Section 5. Application Form**

The Planning Director shall prepare an "SPGA Application Form" to be used in filing any appeal or petition to the SPGA. The form should provide basic instructions to the Applicant and shall be designed to document the ownership of the property in question, the Assessor's map and parcel number(s) and the name, address and telephone number(s) of the Applicant(s) and their Agent(s), as applicable. The application form should provide space for the Applicant to clearly identify the nature of the appeal or petition (also refer to Section 7 herein). The application form shall be available to the public at the offices of the City Clerk, Inspectional Services Division, Board of Appeals, and Planning Board.

## **General Rules and Regulations For All Permit Granting Authorities**

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#### **Section 6 Filing Fees**

##### **A. Establishment of Filing Fees.**

Accompanying each application or petition to the SPGA shall be a filing fee as indicated by the schedule attached herein as "Appendix 1A. Schedule of Filing Fees." All fees shall be paid in cash or by check or money order payable to the "City of Somerville", and shall be presented to the Planning Department at the time of officially filing the petition. No petition will be processed with out the requisite fee.

If a petition includes a request for two (2) or more categories of relief (e.g. and application for a special permit as to use and a variance for setbacks, or a special permit to alter a nonconforming use and a special permit to modify parking requirements), the full normal fees for each category of relief will not apply. Instead, the filing fee shall be the highest of the applicable fees, plus any "add-on" fee specified in the schedule for other category(ies) of relief.

Example: An Applicant files a petition to obtain a special permit with site plan review (SPSR) to develop retail use within an existing 20,000 sf building, which is non-conforming structure with respect to yard setbacks. The Applicant proposes to construct an additional story to the building, which would result in the structure exceeding the area's height limit and floor ratio. A sign is proposed that is slightly larger than allowed by the sign ordinance. A special permit will be needed to alter the nonconforming structure, and three variances are requested for relief from the height, floor area ratio, and sign standards. Of the three (3) forms of relief requested, The SPSR filing fee is the highest at \$450.00. There is no specified " add-on" fee for the special permit to alter the nonconforming structure, but the three (3) variances require a \$50.00 "add-on" fee according to fee schedule for variances (category "F" of the Fee Schedule) The total fee is thus  $\$450.00 + \$50.00 = \$500.00$ .

Applicants should consult with the Building Official (at the Division of Inspectional Services) or Planning Department Staff to determine the applicable fee, before officially filing the application with the City Clerk.

##### **B. Advertising and Notification Fee**

In addition to the filing fee, Applicants must also pay the cost to publish legal notice of the hearing in the newspaper, and to cover mailing costs to notify abutters to the subject property and neighboring cities and towns. The calculation of the advertising and notification fee is described in Appendix 1A: Schedule of Filing Fees.

##### **C. Reduction of Fees for Affordable Housing**

The filing fees of Appendix 1A shall be reduced for any housing projects with fourteen percent (14%) or more affordable housing units (as defined in SZO Article 2), provided there is a minimum of seven percent (7%) of total units provided for low-income households and that the developer/Applicant consents in writing to comply with the long-term

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#### **Section 6 Filing Fees (cont)**

affordability provisions of SZO Article 13 and Chapter 6 of these Rules and Regulations.

Notwithstanding the above, the filing fee for a Comprehensive Permit application shall not be eligible for reductions or waiver; the nature of a Comprehensive Permit application being one which contains affordable housing is already considered in its fee under Appendix 1A, and the City incurs additional costs in the expedited review of such applications.

Any fee reduction or waiver shall be in accordance with guidelines of SZO Section 13.6.3. Fees shall be waived at twice the percentage of affordable housing provided (e.g. 14% affordable/28% fees waived) for projects that include up to twenty-four percent (24%) affordable units. For projects that include twenty-five (25%) or more affordable units, one hundred percent (100%) of fees shall be waived, with the exception of the comprehensive permit, which shall be charged a flat fee of \$200.

To be eligible for the fee reduction, the Applicant must submit a detailed plan documenting provisions for affordable units.

Example: A 40 unit multi-family development (new construction), requiring a special permit with site plan review, includes 8 affordable units, 3 of which are affordable to low-income families. The affordable component is more than 14% (20%), and the low-income component is more than 7% (71/2 %), so the application qualifies for fee reduction.

The reduction would be 40% (twice the affordable component). The normally applicable fee would be \$450.00 (see category "D" of the schedule of Fees). Therefore, the fee is  $\$450.00 \times .60 = \$270.00$ .

#### **D. Project Review Fees**

1. In accordance with M.G.L. c.44 §53G, the SPGA may require that applicants pay the reasonable cost for the SPGA to employ outside consultants with respect to the review of a proposed project.
2. The SPGA may use the Project Review Fee to engage experts, other than attorneys, as outside consultants to assist the SPGA in its work.
3. The Project Review Fee shall be deposited with the City Treasurer who shall establish a special account in accordance with M.G.L. Ch. 44 §53G. Expenditures from this special account may be made at the direction of the SPGA without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a Project Review Fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a required Project Review Fee shall be grounds for denial of the application.
4. At the completion of the SPGA's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in



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#### **Section 6 Filing Fees (cont)**

interest. The SPGA shall provide the applicant or the applicant's successor in interest with a final report of said account. An applicant's successor in interest shall provide the SPGA with documentation establishing such succession in interest.

5. Any applicant may make a written administrative appeal from the selection of the outside consultant to the Board of Aldermen within twenty (20) days after the SPGA has mailed or hand delivered notice of the selection to the applicant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the SPGA shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Aldermen within one month following the filing of the appeal, the selection made by the SPGA shall stand.

#### **Section 7 Basic Procedure for Filing An Application with the SPGA**

##### **A. Completing Application form and Minimum Submission Requirement.**

At minimum, any application to the SPGA shall consist of a completed "SPGA Application Form" (as established under Section 5 herein), the requisite review fee as stipulated under these Rules and Regulations, and minimal information as required under the SZO and these Rules and Regulations for the specific type petition.

A boundary survey plat or bank mortgage plan, as well as a copy of the deed for the property in question shall be included as part of any application. For special permits, the minimum information shall be included as part of any application. For special permits, the minimum information required of all Applicants shall be modeled after the "Basic Information" requirements set forth in SZO Section 5.5.3 (items a-c). For appeals of administrative officials, a petitioner should clearly state the nature of the decision being appealed and present a brief, written summary of the rationale or basis for the appeal.

##### **B. Official Filing of Application with City Clerk**

The Applicant shall present his/her application (as noted above) at the Planning Department office, who will present the application, when complete, to the offices of the City Clerk. Three (3) copies of the application shall be submitted. The City Clerk will affix an official stamp on the application (including copies) stating the date received, and this stamp shall designate the official filing date. The Planning Staff, on behalf of The City Clerk, should expeditiously forward one (1) stamped copy of the application to the offices of the applicable SPGA (usually the Board of Appeals) and two (2) copies to the Planning Board in

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#### **Section 7 Basic Procedure for Filing An Application with the SPGA (cont)**

care of the Planning Director. When the Planning Board is the SPGA, all copies should be transmitted to the Planning Board c/o of the Director.

Only one (1) copy of specialized, project-specific items such as photos or architectural material samples shall be required; these should be presented separately at the offices of the Planning Board, which will review and forward the materials to any other board or agency as appropriate.

Notwithstanding the above, the SPGA or its designees may request extra copies of application materials at any point during the official review period.

#### **C. Fast-tracking of Application**

Certain special permit applications that include development of a specified percentage of affordable housing units are eligible for fast-tracking through the SPGA review process. Refer to Chapter 2 of these Rules and Regulations for special provisions.

#### **Section 8. APPLICATION INVOLVING TRAFFIC OR PARKING REVIEW**

An extra copy of the application may be required in the official filing in certain cases where review by the Director of Traffic and Parking is required. At minimum, this will apply in the following cases:

- 1) An application or a special permit to modify parking requirements, pursuant to SZO Section 9.13;
- 2) A petition involving development where a new curb cut is proposed, or where an existing curb cut onto a public street is relocated;
- 3) A petition for a parking variance of three (3) or more parking spaces.
- 4) When there is a request by the SPGA or its designee for a traffic study.

#### **Section 9 Additional Rules pertaining to Applicants and Petitioners.**

##### **A. Failure of Applicant to Appear**

Should an Applicant or Petitioner, or his/her representative(s) or agent(s), fail to appear at a scheduled public hearing before the designated SPGA, then the SPGA may consider his/her failure to appear as a withdrawal of his/her application. Such failure to appear will not entitle the Applicant to a refund of the filing fees paid hereunder. An Applicant who fails to appear shall be entitled to file a new application upon compliance with the requirements herein, excluding the payment of fees in accordance with the fee schedule then in effect.

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#### **Section 9: ADDITIONAL RULES PERTAINING TO APPLICANTS AND PETITIONERS**

(cont).

##### **B. Incomplete Applications**

Failure to file all information required by the Somerville Zoning Ordinance and these Rules and Regulations, in the office of the City Clerk and SPGA, and prior to review by the SPGA, means the application will be deemed incomplete, and will not be processed further. The SPGA shall have full authority to deny the petition or relief sought due to an insufficient level of information in which to conduct a fair, complete analysis, but shall specify the incomplete components of the application in accordance with the requirements of the SZO.

Notwithstanding their right to disapprove an incomplete application, the SPGA may allow the Applicant to choose one of the following options:

- 1) Withdrawal of the application, and refile when sufficient information is available and application materials are complete; a second filing fee will be required and the withdrawal and refiling shall be subject to the provisions of "C" below; or
- 2) Mutual Agreement between the Applicant and the SPGA to waive the time requirements for public hearing and SPGA action, and to extend these Applicant to complete his/her application and allow the SPGA sufficient time to review the application and reschedule the meeting and/or public hearing.

##### **C. Application Withdrawal**

An Applicant may withdraw his/her application without prejudice prior to the publication of the notice of a public hearing thereon, but thereafter it may be withdrawn without prejudice only in writing and with the approval of four (4) members of the SPGA. Withdrawal will not entitle and Applicant to a refund of the filing fees paid hereunder. An applicant who withdraws his/her application shall be entitled to file a new application upon compliance with the requirements herein, including the payment of fees in accordance with the fee schedule then in effect.

##### **D. Mutual Agreement for Extension of Time**

In accordance with MGL Chapter 40A, Sections 9 and 15, and SZO Sections 3.2.7. and 5.3.4, the required time limits for a public hearing and SPGA action on a given application, petition, or appeal may extended by mutual agreement of the SPGA and the Applicant. The mutual agreement shall be in writing and must be executed on the document form provided by the SPGA for

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#### **Section 9: ADDITIONAL RULES PERTAINING TO APPLICANTS AND PETITIONERS**

(cont).

such purpose. The mutual agreement for extension of the time shall apply concurrently to both the time limit for public hearing and time limit for decision of action by the SPGA, and shall specify definitively the deadlines mutually agreed upon. At least four (4) members of the SPGA must consent to this extension of time. The mutual agreement may include a provision that there be notification of a rescheduled public hearing in accordance with MGL Ch 40A and the SZO, and that reasonable costs of the re-notification of abutters, parties in interest, etc. relative to a delayed public hearing shall be borne by the Applicant.

Upon execution of the written mutual agreement for the extension of time, a copy of the document shall be filed in the Office of the City Clerk as well as the office of the relevant SPGA.

Failure of the SPGA to conduct the mutually extended public hearing to reach a decision within the mutually extended time period for action shall be deemed a constructive grant of the relief sought by the Petitioner, in accordance with MGL Chapter 40A.

#### **E. Continuance**

Applicants and Petitioners may request continuance of a public hearing or other meeting relative to their application so long as the continued hearing or meeting may be conducted within the prescribed statutory time limits. The Applicant or Petitioner should demonstrate good cause for the continuance, and this form of continuance is purely at the discretion of the SPGA, requiring a vote of consent of at least four (4) members. The SPGA shall determine an appropriate date and time for rescheduling the continued hearing or meeting, and is under no obligation to give future priority to an applicant that requests continuance. If there is a need for the re-notification of a rescheduled public hearing in accordance with MGL Ch40A and the SZO, reasonable costs of the re-notification of abutters, parties-in-interest, etc. relative to a delayed public hearing shall be borne by the Applicant.

If a continuance cannot be rescheduled within the statutory time limits for public hearings and actions by the SPGA required by MGL Ch40A and the SZO, then continuance shall be granted only by execution of a mutual agreement as described in part "D" above.

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**Appendix 1A. Schedule of Filing Fees**

**A. Special Permit - Nonconforming Structure**

**SZO Section 4.4, to expand or alter a Nonconforming Structure.**

(utilize only in applications under SZO Section 4.4.1 and where there is no request for a use requiring special permit)

- 1) **One-, Two-, or Three- Family Nonconforming Structure -**  
Petition to expand or enlarge.

FEE = \$100.00

- 2) **All Other Nonconforming Structures** - petition to expand or alter nonconforming structure.

FEE = \$300.00

**B. Special Permit - Nonconforming Use**

**SZO Section 4.5, to expand or alter a Nonconforming Use or to change one Nonconforming Use to another Nonconforming Use.**

FEE = \$325.00

**C. Special Permit to Establish a Use**

**SZO Section 7.11. (SP & SPD)**

- 1) **Three-Family Dwelling in Residence "A" district.**

\$125.00      For conversion of an existing dwelling to three (3) units in a Residence A district.

\$175.00      For new construction of a three-family dwelling in a Residence A district.

- 2) **Use Withing Existing Structure or Open Air Use** - to establish a use entirely within an existing structure, with no increase in gross square footage on site (such as change in use only, or certain cases of substantial rehabilitation), or to establish an open-air use (when use is outdoors, not within an enclosed structure and not involving construction of any new structure).

FEE = \$290.00

- 3) **Use in New Structure or Additions** - to establish a use involving construction of new structures or establishment of additional gross square footage on the site, including additions to existing structures.

FEE = \$375.00

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**Appendix 1A. Schedule of Filing Fees** (cont)

- 4) **Wireless Communications Facility** - to establish a wireless communications facility.

FEE = \$500.00

**D. Special Permit with Site Plan Review**  
**SZO Section 7.11. (SPSR).**

- 1) **Use Withing Existing Structure or Open Air Use** - to establish a use entirely within an existing structure, with no increase in gross square footage on site (such as change in use only, or certain cases of substantial rehabilitation), or to establish an open-air use (when use is outdoors, not within an enclosed structure and not involving construction of any new structure).

FEE = \$350.00

- 2) **Use in New Structure or Additions** - to establish a use involving construction of new structures or establishment of additional gross square footage on the site, including additions to existing structures.

FEE = \$450.00

**E. Special Permit to Modify Parking Requirements**

- 1) **Normal Fee.** When the petition under Sec. 9.13 is the only type of special permit applied for.

FEE = \$250.00

- 2) **"Add-on Fee".** When the petition under Sec. 9.13 is filed together with another special permit or special permit with site plan review petition.

FEE = \$50.00

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**Appendix 1A. Schedule of Filing Fees** (cont)

**F. Variances.**

- 1) **Normal Fee.** Application for variance(s) only.  

\$250.00	For one (1) variance request (e.g. when cited for violation of one SZO Section).
\$50.00	Added for each additional variance request in the same application.
	E.G. \$300.00 for (2) variances, \$350.00 for (3) variances, \$400.00 for (4) variances, etc.
- 2) **"Add-on Fee".** Variance request(s) when included as part of another application or petition (included w/ special permit petition, appeal, etc.).
  - 1) **One or two Variance requests:**

No Fee	One-, two-, or three-family residential
\$50.00 each	All other situations
  - 2) **Three or more Variance requests:**

\$50.00 for each additional variance.	
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**G. Appeals of Administrative Decisions.** - applies only in cases of appealing interpretation of the Building Official or other administrative official, or appealing enforcement action. Fees apply if filing an appeal petition only. There is no additional fee for appeals filed in conjunction with another type of application.

- |                |  |
|----------------|--|
| Fee = \$100.00 | For appeal of up to three (3) cited violations or decisions. |
| \$50.00        | For each additional citation or decision appealed.           |

**H. Site Plan Approval.**

- |                |  |
|----------------|--|
| Fee = \$250.00 | Normal review by Planning Board                                      |
| \$50.00        | Add-on fee if filed simultaneously with another type of application. |
| \$50.00        | Minor Site Plan Approval (see Ch. 6 of Rules and Regulations)        |

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**Appendix 1A. Schedule of Filing Fees** (cont)

- I. Comprehensive Permit** - Applications filed under MGL Chapter 40B,  
Secs. 20-23.

Fee = \$200.00

- J. Planned Unit Developments** - SZO Article 16.

Fee =     \$500.00         for Master Plan  
           \$500.00         for each phase

- K. Minor Revisions to Previously Issued Permits** - SZO Sec. 5.3.8.

Fee = \$75.00

- L. Advertising and Notification Fee**

Fee =     \$50	For newspaper advertisement
\$2/each	For notification of each abutter on certified abutters list
\$2/each	For notification of Applicant, Agent, and Owner
\$14	For notification of 7 neighboring cities and towns

The total Advertising and Notification fee is the sum of the above  
four fees.




Rules and Regulations To Special Permit Petitions of the Permit Granting  
Authorities

Chapter 2 of The Rules & Regulations of the Permit Granting Authorities

Date Adopted by Planning Board August 7, 2003

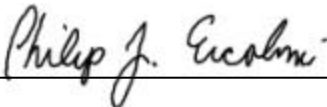
Attest:

  
\_\_\_\_\_

Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals: September 10, 2003

Attest:

  
\_\_\_\_\_

Philip Ercolini, Chairman of the Board of Appeals

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

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## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 1 Special Permit Petition**

Unless specifically stated otherwise, as used hereinafter the terms "special permit petition" or "special permit application" shall be deemed to include any petition or application for any kind of special permit, including a special permit related to a nonconforming use or structure, special permit with design review, and special permit with site plan review (including planned unit development).

#### **Section 2 Planning Director - Designation of Administrative Authorities And Responsibilities**

The SPGA designates the Executive Director of the Planning Board (hereinafter referred to as the "Planning Director" or "Director") with the following authorities and responsibilities relevant to special permit petitions.

1. Review and prepare recommendations to the Planning Board on all appeals and petitions for which the PB is the SPGA;
2. Prepare a staff report and recommendation to the PB on each special permit application, regardless of whether the Planning Board is the designated SPGA on a given application;
3. Prepare and forward reports and recommendations of the Planning Board to the ZBA, as appropriate;
4. Serve as the SPGA'S designee regarding Sections 5.1.2 and 5.2.3. of the SZO in determining information and submittal requirements of an application (the Planning Director's determinations may be overruled by the SPGA):
5. When the SPGA is the Planning Board, ensure and document compliance with the procedures of SZO Section 5.3 and with relevant provisions of these Rules and Regulations, particularly those related to public notice, keeping record of Planning Board proceedings, and filing of Planning Board decisions.
6. Serve as the SPGA liaison with other relevant agencies and designated entities referred to in the SZO or elsewhere in these Rules and Regulations;
7. Provide technical analysis and advice, as requested or where appropriate, to the SPGA;

The Director may assign a person of his/her staff to coordinate review of any given special permit petition.

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 3 GENERAL PROVISIONS FOR ALL SPECIAL APPLICATIONS**

##### **A. Meeting with Director**

Although not mandatory, Applicants are encouraged to meet with the Director (or his/her staff designee) prior to submitting an application to determine specific information that should be included in the application. As a matter of policy, the SPGA authorizes the Planning Director to determine adequacy of the information submitted with a special permit petition to allow proper professional review.

##### **B. Minimum Information Requirement**

In addition to the basic SPGA application Form, all special permit applications shall include the "Basic Information" enumerated as items 1-4 under SZO Section 5.1.2. Failure to file the minimum information shall be grounds for rejection and the application will not be processed further, unless the Planning Director determines a specific item is clearly not applicable to a specific proposal and waives its submission.

##### **C. Official Filing**

As with any application to the SPGA, the Applicant will file a minimum of two (2) copies of his/her application in the offices of the City Clerk, under the normal procedures set forth in Chapter 1 of these Rules and Regulations. Additional copies may be required or requested based on the nature of the petition.

##### **D. Director to Review Information Submitted in Application**

The Director shall review each special permit application for its informational content and determine adequacy of that information for his/her report to the Planning Board.

The Director should endeavor to identify missing or incomplete information as soon as possible after the application is officially filed, and notify the Applicant expeditiously. Depending on the nature of the proposed development project, additional information may be requested by the Planning Director in keeping with SZO Sections 5.1.2 and 5.2.3. If the Director determines to request five (5) or more additional items from an Applicant, notification to the Applicant shall be in writing, sent via U.S. Postal Service or hand-delivered.

The Director may also waive any and all of the information outlined under SZO Sections 5.1.2 or 5.2.3, as applicable, using his/her professional judgment as to the applicability to a given petition.

##### **E. Applicant Request for Waiver of Information Submittal Requirements.**

An Applicant may submit a written request for waiver of certain information submittal items, provided the request is included in the official filing or, preferably, addressed to the Planning Director prior to the official filing. Within ten (10) business days of receipt of the waiver request, the Planning Director should notify the Applicant in writing of his/her decision regarding the request. The notification shall be sent via U.S. Postal Service or hand-delivered.

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 3. GENERAL PROVISIONS FOR ALL SPECIAL PERMIT APPLICATIONS** (cont)

If an Applicant is dissatisfied with response of the Planning Director, he/she may file a written statement in the offices of the SPGA, specifying the nature of disagreement on submission of information, and requesting that the application be reviewed based on the information that is submitted, even if such information is deemed incomplete by the Director. In submitting such a request, An Applicant acknowledges that he/she is proceeding at risk of the SPGA denying the special permit on the basis of an incomplete application (SZO Sections 5.1.4 and 5.2.5). The SPGA alone shall determine the merits of an information waiver request and/or an application deemed incomplete by the Director and submitted by the Applicant under the above terms.

##### **F. SPGA Request for Further Information.**

Notwithstanding the provisions of "D" above, the SPGA alone shall make the final determination of adequacy of information in any special permit petition. The SPGA may request additional information as provided for under Article 5 (specifically, Sections 5.1.2 and 5.2.3) at any time during the official review period, which commences upon the official filing of the special permit application and continues until the SPGA issues its decision on the petition or until the SPGA's time for action has elapsed (pursuant to SZO Section 5.3.3), unless the Applicant has stated on the record his/her voluntary waiver of the restriction on the SPGA's time for action.

#### **Section 4. SPECIAL PERMIT WITH SITE PLAN REVIEW APPLICATIONS (SPSR): ADDITIONAL REQUIREMENTS**

##### **A. General**

A petition for special permit with site plan review (SPSR), including application for planned unit development, is subject to all the requirements of the proceeding Section 3 herein. In addition, this Section 4 establishes further rules pertaining to SPSR petitions given their nature as larger and/or more complex developments.

##### **B. Application Form**

In addition to the normal "SPGA Application Form" an Applicant for SPSR should also include a completed "Application for Special Permit with Site Plan Review" form in his/her application. This form is available in the offices of the City Clerk, offices of the Inspectional Services Division, Offices of the Planning Board, and the offices of the Board of Appeals.

##### **C. Meeting with Director**

It will be considered normal procedure that there be a meeting between the SPSR Applicant and Director (or his/her designee) prior to official filing. The Director should be available upon reasonable notice for such a meeting, or designate one of his/her staff members to arrange a meeting when requested by an Applicant. An Applicant for SPSR should meet with the

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 4 SPECIAL PERMIT WITH SITE PLAN REVIEW APPLICATIONS (SPSR): ADDITIONAL REQUIREMENTS. (cont)**

Director and provide one (1) copy of his/her application for the purpose of reviewing its completeness in form and minimum submission requirements, and determine any further information that will be necessary for proper review.

##### **D. OFFICIAL FILING**

As with any special permit application, the Applicant will file his/her application in the Offices of the City Clerk will transmit the four copies as follows:

- 1) One (1) copy to the Office of the applicable SPGA;
- 2) One (1) copy to the Planning Board, in c/o of the Director;
- 3) One (1) copy to the Director of Traffic & Parking;
- 4) One (1) copy to the City Engineer

#### **Section 5 REVIEW OF SPECIAL PERMIT PETITIONS**

##### **A. Review and recommendations of Planning Director to Planning Board**

Upon receipt of an official copy of the special permit application from the City Clerk's Office, the Planning Director shall conduct a formal review of the application and prepare a report and recommendations to the Planning Board on its disposition. The Director is granted discretion from the Planning Board as to the most desirable formats and methods of communication.

The Planning Director should always communicate with other relevant City Departments, which may wish to comment on a given application (in particular, OHCD, Fire Prevention, Traffic and Parking, and the Engineering departments. The Director's report should incorporate these comments to the maximum extent practical.

The Planning Director may also document in his/her report the comments or Position of the Ward Alderman (for the area the development site is located within) and any other record of support or opposition received during the review.

##### **B. Scheduling Hearings and/or Review**

It shall be SPGA policy to schedule review of special permit petitions in the order received, on a first-come, first-served basis unless the application qualifies for fast-tracking under the SZO section 13.6.2 (see Section 6 below for rules pertaining to fast-tracking of special permit applications).

When the ZBA serves as the SPGA, the ZBA Secretary shall be responsible for scheduling the required public hearing before the ZBA within the time limits established by MGL Chapter 40A, Section 9 and SZO no more than sixty-five (65) days after official filing of the relevant special permit petition in the City Clerk's Office.

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 5 Review of Special Permit Petitions (cont)**

When the Planning Board serves as the SPGA, the Director shall schedule a public hearing and review by the Planning Board within the time limits established by MGL Chapter 40A, Section 9, and the SZO Section 5.3.3. When the ZBA serves as the SPGA for a given special permit petition, the PB will review said petition in advance and make a recommendation to the ZBA on the petition. The Planning Director shall schedule a review of the application before the Planning Board at its first available meeting, with the objective of scheduling PB review within thirty (30) days of the official filing date so that any PB action and recommendation may be forwarded to the ZBA in a timely manner

#### **C. Planning Board Report and Recommendation to Board of Appeals**

When the ZBA serves as the SPGA for a special permit petition, the Planning Board shall review and make a recommendation on such special permit applications prior to the ZBA's review. The PB shall consider the report and recommendation of the Planning Director in its review.

The Planning Board should report its recommendation to the ZBA within thirty-five (35) days of the Planning Board's receipt of a copy of the official filing of the special permit petition. The Planning Director will prepare a written brief or report documenting the PB's recommendation, and should file this report in the ZBA's offices within the requisite time frame. The Director should also provide the Applicant with a copy of the PB report at the same time the report is filed with the ZBA. Any person may obtain a copy of the PB report after said report has been filed with the ZBA.

The Planning Director will also maintain on-going communication with the ZBA Clerk as to the scheduling of special permit public hearings before the ZBA and ensure that copies of relevant Planning Board reports are sent to the individual ZBA members prior to the hearing on a given petition.

#### **D. Notification**

Notification and public advertisement of a public hearing on any special permit petition shall be conducted according to the provisions of the MGL Chapter 40, Section 9, and the SZO Sections 5.3.2 and 5.3.3. When the ZBA serves as the SPGA, the Board's Clerk shall be responsible for ensuring compliance with these notification standards. When the Planning Board serves as the SPGA, the Planning Director shall ensure compliance with the notification requirements.

#### **E. Public Hearing**

The SPGA will hold its public hearing on a special permit application in compliance with the MGL Chapter 40A, Section 9 and SZO Sections 5.3.3 and 5.3.4. As to specific conduct, the Board of Appeals will conduct its hearings according to its stated general Rules and Regulations (Chapter 4 herein) and the Planning Board will conduct hearings as stated in its general Rules and Regulations (Chapter 5 herein).

A record will be made of all persons offering testimony. To the degree practical, a record should also be made of all other persons in attendance. The SPGA shall make record of the name and address of any person attending the hearing who specifically requests that notice be sent to him/her as to the SPGA decision on a given matter.

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 5 REVIEW OF SPECIAL PERMIT PETITIONS (cont)**

##### **F. Findings and Determinations**

The SPGA shall make appropriate findings and determinations under each applicable item of SZO Sections 5.1.4, 5.1.5 and 5.1.6 for each special permit (or special permit with design review) application it reviews.

The SPGA shall make appropriate findings and determinations under each applicable item of SZO Sections 5.2.4, 5.2.5 and 5.2.6 for each special permit with site plan review (including planned unit development) application it reviews.

##### **G. Written Record of Determination and Decision**

The SPGA shall prepare a written record of each finding and determination it makes, and of its decision as to the granting of the requested special permit. The SPGA may request the Secretary to the Board of Appeals or Planning Director, as appropriate, to prepare such written record, and shall then confirm the accuracy of such record.

##### **H. Filing of Decision**

The written decision of the SPGA regarding a special permit petition shall be filed with the City Clerk within fourteen (14) days of the decision. Copies of the decision shall be sent to the parties specified under SZO Section 5.3.5. In addition, when the Board of Appeals serves as the SPGA, notice shall be sent according to SZO Section 3.2.9.

The SPGA advises Applicants of the requirements under the Massachusetts General Laws that a special permit be filed in the Registry of Deeds for the County in which the affected site is located. All special permits should be filed in the Middlesex Registry of Deeds.

#### **Section 6. FAST-TRACKING PROCEDURES FOR SPECIAL PETITIONS INCLUDING AFFORDABLE HOUSING**

##### **A. Purpose and Eligibility**

Certain special permit petitions for projects, which provide affordable housing unit(s) as defined under SZO Article 2, are eligible for "fast-tracking" through the zoning review process. This expedited procedure is available as a matter of policy intended to remove barriers to the creation of affordable housing in the City of Somerville. However, under no circumstances shall public notification requirements be reduced or waived, nor shall substantive standards be deviated from. The fast-tracking provisions set forth in the SZO and in these Rules and Regulations are intended to help Applicants, but not to remove the Applicant's or the SPGA's responsibilities under law. In fact, an Applicant must be well prepared in his/her application in order to attain maximum benefit of the fast-tracking procedure.

Under the provisions of the SZO, there are (2) classes of special permit petitions eligible for fast-tracking:

- 1) Under SZO Section 5.3.1, any special permit application including at least 25% affordable housing units; and
- 2) Under SZO Section 13.6.2, any inclusionary housing project (requiring special permit with site plan review) that exceeds the minimum



## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 6 Fast-tracking Procedures** (cont.)

requirements for affordable ("inclusionary") housing units as set forth therein.

##### **B. Identify Eligibility.**

The Applicant shall identify his/her application as eligible for fast-tracking at the time of the official filing of his/her application or, preferably, in advance by confirmation from the Planning Director. The Planning Director is delegated the authority to determine eligibility and state such ruling in his/her reports.

It is desirable that the Applicant identifies the project as potentially eligible for fast-tracking in early meetings with the Director. This will expedite the determination of eligibility.

##### **C. Notice of Fast-tracking.**

The Applicant shall submit, in his/her official filing with the City Clerk, ten (10) copies of a completed Notice of Fast-tracking, available from the Planning Department, ZBA offices, and the Inspectional Services Division (the Notice for also included with the "Inclusionary Housing Developer's Kit"). The City Clerk shall retain one (1) copy and post such on the public notice bulletin board of City Hall, and forward the remaining nine (9) copies to the Planning Director. The Director shall confirm eligibility and forward a copy of the notice of fast-tracking to appropriate reviewing boards and departments, and to the Housing Director. In addition, the Planning Director shall send a copy of the Notice of Fast-tracking to the Ward Alderman in whose ward the development is being planned, and to all Aldermen-At-Large. The Planning Director should send these copies to the appropriate parties as soon as possible after official filing.

##### **D. Expedited Review of Request for Eligibility.**

The Planning Director shall take special care to expeditiously rule on any Applicant's request for fast-tracking eligibility. Upon certification of eligibility for fast-tracking, the Planning Director shall immediately notify the Housing Director of the receipt of a fast-tracking application, and the two Directors shall expeditiously review the preliminary filing to determine what minimal information is missing and necessary for review, with the goal of providing feedback to the Applicant within two (2) business days of receipt of the filing.

##### **E. Permission for Planning Director to Officially File.**

In order to save time, a potential eligible special permit Applicant may grant his/her permission for the Planning Director to officially file the application once the minimum required information has been provided. This will only be possible if a preliminary submission is provided to the Planning Director and ruled as eligible for fast-tracking and is complete when first submitted or, in the Director's estimation, any missing information is not of immediate critical importance and can be obtained within a few days. Then, the Planning Director may directly transmit the

## **Rules and Regulations Pertaining to Special Permit Petitions**

### **Chapter 2 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 6. Fast-tracking Procedures** (cont.)

application to the City Clerk for officially filing, and notify the Applicant that this has been done.

In any case, the Applicant shall be responsible for providing the normal duplicate copies of the application, as indicated below. The application will only truly be able to be fast-tracked when the Applicant is aware of his/her responsibilities in aiding quick review. Preparedness is the key.

#### **F. Filing of Extra copies of Inclusionary Housing Application**

If the eligible fast-tracked application is an inclusionary housing petition, the Applicant shall include three (3) extra copies of the Inclusionary Housing component when making the official filing, for a total of eight (8) copies of this component. After date stamping, the City Clerk shall forward one of these extra copies to the Affordable Housing Trust Fund Directors and one to the Ward Alderman for the ward in which the proposed inclusionary housing development is located. The third extra copy shall be retained by the City Clerk and be available for public inspection until the SPSR/Inclusionary Housing application has been acted upon by the SPGA and any appeals period has lapsed.

#### **G. Communication with Planning and Housing Directors**

The Applicant should be prepared to meet with the Planning and Housing Directors - as well as other appropriate City Staff and involved agencies - on short notice, and to communicate with these entities often during the fast-track review period.

#### **H. Scheduling Planning Board and SPGA Review**

If the SPGA is the Planning Board, the Planning Director shall schedule that Board's review of the application within twenty-eight (28) days of the official filing date. The Planning Director shall undertake all normal and proper legal advertising of the of the SPGA public hearing on the application as specified elsewhere in these Rules and Regulations.

When the SPGA is the Board of Appeals, the Planning Director shall schedule the fast-track application for the recommendation of the Planning Board at the PB's first available meeting, provided that such meeting date is at least ten (10) days from the official filing date. This is to allow the Director to prepare a draft report for the Planning Board to consider before submitting its recommendations to the Board of Appeals.


The Planning Director shall communicate with the ZBA Secretary to ensure that the application is scheduled for review and public hearing by the ZBA within forty-two (42) days of the official date of filing. Alternatively, for administrative efficiency, the Planning Board may elect to not to hold its own separate review meeting (when the ZBA is serving as the SPGA), and instead attend the public hearing before the Board of Appeals to present its comments or recommendations. In this case, the ZBA will conduct its hearing as soon as practical, although no sooner than twenty-eight (28) days after the official filing date.

The SPGA shall make every effort to make its findings and determinations and act on the fast-track application at the public hearing or as soon thereafter as possible.

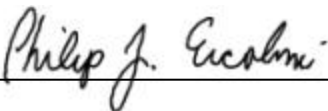
Rules and Regulations to Inclusionary Housing

Chapter 3 of the Rules and Regulations of the Special Permit Granting  
Authorities

Date Adopted by Planning Board                      August 7, 2003

Attest:                                                                  
   Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals:                      September 10, 2003

Attest:                                                                  
   Philip Ercolini, Chairman of the Board of Appeals

**Rules and Regulations Pertaining to Inclusionary Housing**  
Chapter 3 of the Rules and Regulations of the Permit Granting  
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**Rules and Regulations Pertaining to Inclusionary Housing**  
Chapter 3 of the Rules and Regulations of the Permit Granting  
Authorities

**Section 1. Designation of Planning and Housing Directors' Authorities**

**A. General**

The SPGA hereby designates the Planning Director and the Office of Housing and Community Development (OHCD) Director for Housing (hereafter referred to as the "Housing Director"), or their respective staff designees, with the charge of administrative and procedural review of all Inclusionary Housing Applications submitted under the terms of Article 5 and 13 of the Zoning Ordinance (SZO), and reporting of recommendations of such plans to the SPGA.

An inclusionary housing application requires special permit with site plan review (SPSR). In keeping with standard procedures for SPSR review, the Planning Director shall be responsible for ensuring compliance with the provisions of SZO Article 5. The Planning and Housing Directors shall together be responsible for administering and documenting compliance with the provisions of SZO Article 5. The Planning and Housing Directors shall together be responsible of Article 13 up to the point of SPGA review of the Inclusionary Housing Application, and they shall have the authority to determine the most efficient means of dividing the review workload amongst their respective departments. The Planning and Housing Directors shall ensure compliance with the application/review procedures of these rules and regulations as well. The Housing Director shall have the specific responsibility of administering the provisions of Chapter 3, Section 5 of these Rules and Regulations.

**B. Recommendations and Technical Advice to SPGA**

The Planning and Housing Directors shall make a report to the SPGA on conformance of an inclusionary housing proposal with all applicable sections of the SZO. They shall make every effort to coordinate their respective reviews so that the recommendations on both the SPSR application elements and the more specific Inclusionary Housing application elements are completed and presented together to the SPGA. When the Board of Appeals serves as the SPGA, the Directors should coordinate their reviews so that a report can be made to the Planning Board for their review prior to the Board of Appeals' public hearing and review.

In order to streamline the review process for Applicants, the Planning and Housing Directors shall serve as the SPGA liaison with other relevant agencies and designated entities referred to in the SZO or elsewhere in these Rules and Regulations, including the Somerville Housing Authority and the Affordable Housing Trust Fund Directors.

The Planning and Housing Directors shall provide technical advice to the SPGA on planning, development, and housing issues (including relevant state or federal programs) on an as-needed basis.

**C. Administration/Enforcement Related to the Implementing Inclusionary Housing Units in an Approved Development.**

Upon approval of inclusionary housing development, the Housing Director shall oversee compliance of the inclusionary housing component of the project, including compliance of the project with all relevant terms of Article 13 and any conditions of the special permit related to the affordable housing units.

**Rules and Regulations Pertaining to Inclusionary Housing**  
Chapter 3 of the Rules and Regulations of the Permit Granting  
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**Section 2. PROCEDURE FOR FILING AN INCLUSIONARY HOUSING PETITION**

**A. Preliminary Meeting with Planning and Housing Directors**

The SPGA strongly encourages Applicants to meet with the Planning and Housing Directors, or their designees, at least three (3) weeks prior to submitting an application. This meeting will be considered standard procedure.

Inclusionary housing projects undergo a very specific and sometimes complicated review process. Early communication on the part of an Applicant will prove highly worthwhile to his/her understanding of both procedural and substantive requirements. The Planning and Housing Directors shall be available to any Applicant upon reasonable notice, or designate members of their respective staffs to coordinate review with the Applicant.

**B. Special Permit with Site Plan Review (SPSR) Application**

As established in the SZO, an inclusionary housing project by its nature requires SPSR review under Article 5 of the SZO. Therefore, an inclusionary housing Applicant shall submit all applicable information required in Article 5 for SPSR and follow the procedures outlined in Chapter 2 of these Rules and Regulations for SPSR applications.

**C. Inclusionary Housing Application.**

Applicants should complete and file the "Inclusionary Housing Application" application is included in the "Inclusionary Housing Developer's Kit," available at the Planning Department and at the Office of Housing and Community Development. Applicants will find it worthwhile to meet with the Planning and Housing Directors for assistance in completing the application.

**D. Official Filing**

Chapter 2 of these Rules and Regulations shall govern the procedures to follow in officially filing the petition with the City Clerk, except that five (5) copies of the application shall be filed instead of the normal four (4) copies. The City Clerk shall distribute four copies as noted in Chapter 2, with the officially stamped copy sent to the Housing Director.

**E. Petition for Fast Tracking (SO Section 13.6.3)**

See Chapter 2, Section 6 herein for the rules and regulations governing the processing and scheduling of eligible fast track inclusionary housing petitions.

**F. Fee Reduction or Waiver (SZO Section 13.6.3)**

Applicants applying for fee reduction or waiver shall complete the Fee Waiver form included in the Developer's Packet. Also, refer to Chapter 1 of the Rules and Regulations for more information.

**Rules and Regulations Pertaining to Inclusionary Housing**  
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**Section 3 FORMAL REVIEW OF THE INCLUSIONARY HOUSING PETITION**

**A. Planning Director Review.**

Upon receipt of a copy of the SPSR/Inclusionary Housing Petition officially filed in the City Clerk's Office, the Planning Director shall conduct a formal review of the application and prepare a report under the normal procedures for SPSR review outlined in Chapter 2 of these Rules and Regulations, and shall be responsible for coordinating and incorporating the review comments of the other agencies and departments as appropriate. In cases where the SPGA is the ZBA, the Director shall prepare the report and recommendation for presentation to the Planning Board prior to submission of any report and recommendation to the ZBA.

**B. Housing Director Review**

The Housing Director shall also review the SPSR/Inclusionary Housing Petition, with specific emphasis on determining that the inclusionary Housing Petition, with specific emphasis on determining that the inclusionary housing application component (particularly the "implementation plan") is complete enough in form to be analyzed for preliminary recommendations to SPGA. If information is deemed to be insufficient, or the Housing Director requires additional information for proper review, he/she will communicate the need for submission of additional information to the Applicant under the same procedures normally employed for special permit review (see Chapter 2 of these Rules and Regulations) The Housing Director should make every effort to clearly itemize, in writing the missing components and/or additional requested information that will bring the Inclusionary Housing Application component to the satisfaction of the Housing Director.

The Housing Director shall prepare preliminary recommendations to the SPGA within thirty-five (35) days of the official filing date. The Housing Director may request that the Applicant provide additional information and/or meet with him/her during this review. When the ZBA serves as the SPGA, the Housing Director shall make every effort to prepare such preliminary recommendations within twenty-one (21) days of the official filing date, so that the Planning Board may consider the Housing Director's recommendations in its review and report to the ZBA (i.e. typically the ZBA serves as the SPGA, and the PB will prepare its report prior to ZBA hearing and review).

**C. SPGA Public Hearing and Review**

The SPGA shall conduct its public hearing and the advertisement/notification of such under standard procedures for an SPSR application. SZO Section 5.3 and Chapter 2 of these Rules and Regulations shall govern the responsibilities for public notification, scheduling the requisite public hearing, and advising the SPGA as to time deadlines for action.

If the inclusionary housing petition qualifies for fast tracking under section 13.6.2 of the petitioner has duly applied for such fast tracking the guidelines of Section 4 below provide information of scheduling fast-tracking applications.

**Rules and Regulations Pertaining to Inclusionary Housing**  
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**Section 4 Inclusionary Housing Developer Application Kit**

**A. Housing Director to Provide Developer's Application Kit**

The Housing Director will prepare the "Inclusionary Housing Developer's Application Kit" and make this available at the Office of Housing and Community Development (OHCD), and provide the copies to the Planning Department as well. The Housing Director will provide assistance to Applicants in completing their inclusionary housing applications.

**B. Contents of Developer Kit and Applicant Responsibility to Provide Complete Information**

The Developer's Kit shall include the following items (at minimum), and the Applicant shall complete the Inclusionary Housing Application and provide all required information to the best of his/her ability. The Applicant must submit a completed Inclusionary Housing Application in order to be reviewed.

- 1) Inclusionary Housing Application Forms, designed to obtain information from the Applicant related to Article 13 of the Somerville Zoning Ordinance (SZO) and these Rules and Regulations.
- 2) Household income and Affordability Standards. Schedule current income, rent and sales price information for Somerville, which establishes definitive affordability levels for low and moderate-income households, in compliance with SZO Article 13 (e.g. current maximum sales prices and rents which may be considered for inclusionary housing units). Applicants must use this information to complete the application, must use the forms provided for collecting income information of all household members who will occupy the inclusionary housing units.
- 3) Implementation Plan (SZO Section 13.3.1). An Applicant must provide an Implementation Plan as part of the application. Forms for documenting information required in the implementation plan will be included in the Developer's Kit.
- 4) Legal documents and forms for the Applicant's use in documenting compliance with implementing procedures of those Rules & regulations and with long-term affordability requirements.

**Section 5 Specific Standards Administered by Housing Director**

**A. Housing Director /OHCD Staff Delegated Authority**

The Housing Director, or designated staff of the Office of Housing and Community Development, is delegated the authority and responsibility to oversee compliance with the provisions of this Section 5 of Chapter 3 of the Rules and regulations.

**B. Household Income (SZO) Section 13.3.2**

The Housing Director shall establish current income figures for households eligible for low and moderate income units, based upon percentages of median Standard Metropolitan Statistical Area household income stipulated in SO Section 13.3.2. These standards and figures will be presented in the Developer's Kit, and will be update annually (minimum) by OHCD. Applicants must use the form provided in the Developer's Kit to collect income information for all household members.



## **Rules and Regulations Pertaining to Inclusionary Housing**

Chapter 3 of the Rules and Regulations of the Permit Granting Authorities

### **Section 5 Specific Standards Administered By Housing Director (cont)**

A "household" is defined the same as the definition for "family" in SZO Article 2.

#### **C. Affordability (SZO Section 13.3.3)**

The Housing Director shall establish current maximum sales prices and rents that developers may charge for affordable housing units in an inclusionary housing development. These figures will be presented in the Developer's Kit, which will be updated annually (at a minimum) by OHCD. A developer must submit evidence to OHCD that sales prices or rents are in compliance prior to applying for a certificate of occupancy for any units in an inclusionary housing project.

#### **D. Quantity and Distribution of Units (SZO Section 13.3.4).**

1) **At time of Application:** As part of the Inclusionary Housing Application, an Applicant shall present the total number of inclusionary housing units required and the proposed breakdown of low-income and moderate units. Applicants may obtain assistance from OHCD or Planning Department staff in determining these numbers. Applicants must also specify the number of bedrooms proposed in each inclusionary housing unit - the number of one, two, or three (or more) bedroom units. The number of bedrooms in the inclusionary housing units shall be comparable to or exceed the number of bedrooms typical in the balance of the development.

2) **Inspection and Certificate of Occupancy:** Developers will notify the Housing Director prior to applying for certificates of occupancy and will identify the actual inclusionary housing units at the time, so that OHCD staff may inspect and approve the units. OHCD will inspect units within three (3) business days of being notified by the developer. Inspectional Services (ISD) will grant certificates of occupancy on the inclusionary housing units only after the Housing Director notifies ISD that the Applicant has selected income-eligible tenants or buyers.

Developers may apply to ISD for certificates of occupancy for the market rate units only upon OHCD approval of the inclusionary units and only after the Housing Director has approved the developer's long-term affordability protective mechanisms.

At the time of application for a certificate of occupancy, a developer of a project with homeownership units shall record in the Middlesex Registry of Deeds the required deed restrictions on the inclusionary units as a condition for certificate of occupancy of any unit. In rental projects, the exact location of the inclusionary housing units may change over time, as a result of changes in tenant's income; therefore, the initial designation of Inclusionary Housing units will not be permanent (see item "H" below).

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**Section 5 Specific Standards Administered by Housing Director** (cont)

**E. Disposition (SZO Section 13.3.5).**

1) **At time of Application and Approval:** As part of the Inclusionary Housing Application, an Applicant shall submit a plan for disposition of units in accordance with the provisions of SZO Article 13. The disposition plan will become part of the SPSR/Inclusionary Housing approval. As part of its approval, the SPGA may delegate the Housing Director with the authority to approve modifications to the dispositions plan, provided such modifications still result in a plan complying with these Rules and Regulations. The Housing Director shall report to the SPGA on any approved changes.

2) **Marketing Plan:** Developers or their marketing agents must market inclusionary housing units according to the criteria in SZO Section 13.3.5. Households will be eligible to purchase or rent units where the number of bedrooms does not exceed the household size. Prior to applying for a certificate of occupancy, developers must submit a marketing plan to OHCD that meets the guidelines in the Developers Packet for advertising, non-discrimination and affirmative fair marketing, lottery priorities and preference categories, and documentation.

3) **Rental Units:** Owners of rental units may require a security deposit equal to one month's rent (except where any subsidy program requirements would prohibit it) and the payment of the first month's rent at the time a lease is signed with an eligible tenant. A tenant shall not be charged leasing or broker fees. OHCD staff will revise lease forms to ensure compliance with the terms of SZO Article 13.

4) **Management and Maintenance:** Inclusionary Housing Units must be maintained at the same level as other units and must comply with state Sanitary and Building codes. Applicants must specify the name of the management company, if any, in the inclusionary Housing Application.

**F. SPGA Right of First Refusal/Option to Purchase (SZO Sec. 13.3.5)**

1) **SPGA Designee:** The SPGA will specifically designate the appropriate party to exercise its option on any specific inclusionary housing project, in writing or on the official record of an SPGA meeting. Alternatively, the SPGA may designate the Housing Director as its agent, and the Housing Director may determine an appropriate party to exercise the purchase option. The Housing Director shall report on the status of any designated party excising the City's option to purchase.

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**Section 5 Specific Standards Administered by Housing Director** (cont)

2) **Notice of Completion and Exercise of Rights:** Prior to applying for a certificate of occupancy for inclusionary housing units, developers must officially notify the SPGA designee and the Housing Director of completion of the units, so that the SPGA's designee may exercise its right of first refusal to purchase or lease the units. The SPGA or its designee must provide notice of notification by the developer and must exercise its option within ninety (90) days of such notice.

**G. Long-term Affordability (SZO Section 13.3.6)**

The City of Somerville shall enforce the long term affordability requirement of Article 13 through deed restrictions - including restrictions on use and resale, as well as the City's right of first refusal and option to purchase - or other legal methods as the Housing Director may determine in consultation with OHCD's attorney's or the City Solicitor's Office. Developers shall show evidence of recording such deed restrictions using legal documents provided in the Developer's Packet or approved by OHCD as a precondition to receiving a certificate of occupancy.

In addition, developers shall cooperate with the City in its application to the Massachusetts Executive Office of Communities and Development for designation on Inclusionary Housing Units under the Chapter 774 Local Initiatives Unit Program.

**H. Rental Units - Redeterminations and Annual Report**

Developers/owners of rental projects which include inclusionary housing units must submit to OHCD an annual statement of rent level, rental income and verification of tenant income. The annual report shall state any changes in income of tenants in affordable units, proposed changes in rent levels or proposed changes in designation of specific units. The following rules shall apply:

- 1) Owners may make rent determinations no more than twice annually.
- 2) Tenants occupying inclusionary housing units who become "over-income" or "under-income" for the unit they occupy may not be displaced, but they may be charged rents appropriate to their income level upon approval by OHCD (i.e. low-income, moderate-income market or market rate.)
- 3) If the annual redetermination results in an imbalance in the number of low-income and moderate-income inclusionary housing units in the project, next the vacant unit of the appropriate bedroom size shall be rented or leased to an income-eligible tenant at a rate necessary to restore the balance of ten percent (10%) inclusionary housing units, with at least five percent (5%) of the total project units maintained as low income household units - or if bonus density has been granted under SZO section 13.5, to maintain a minimum fifty percent (50%) of the increased amount of inclusionary housing units as low income units.

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**Section 5 Specific Standards Administered By Housing Director (cont.)**

- 4) If no appropriately sized units are available at the time of the redetermination, causing imbalance in low-income and moderate-income units- the owner will make payments to the Affordable Housing Trust Fund in an amount equal to the difference between the total rent which would be charged at then-current rates for inclusionary housing units and the average market-rate rent within the project units of the same size. This payment will be made quarterly until such a time as a vacancy within the project allows of low income and moderate-income units to be restored. Because the intention of Article 13 is to always maintain the minimum required five percent (5%) of low-income units and the minimum required ten percent (10%) total inclusionary units - or when bonus density is granted, to maintain a minimum of fifty percent (50%) of the increased amount of inclusionary housing units - in lieu rent payments are allowed only as an interim step to avoid displacement of tenants when their income change.

**I. Alternative Methods of Compliance (SZO Section 13.4)**

Developers seeking permission to use an alternative method of compliance must submit as part of the Inclusionary Housing Application a specific justification for why Inclusionary Housing units cannot be provided on site. Developers must also submit a plan outlining which alternative method will be used and how it meets the requirements of SZO section 13.4.2. Because the intention of Article 13 is to provide inclusionary housing units on site within the residential development, the SPGA will only grant permission to utilize alternative methods of compliance in extreme cases or when there is a required fractional unit of less than 0.5 affordable unit.

Applicants must use the cash payment formula in Section 13.4.2, subsection B.3 to determine payment due if calculation of the number of Inclusionary Housing units yields a fraction of 0.1-0.4 units or if SPGA grants permission to use cash payment as an alternative method for compliance. Required payments will be calculated by the Housing Director at the time of the SPGA's review of the Inclusionary Housing Trust Fund prior to issuance of a certificate of occupancy.

Related to the dollar value formula stipulated in SZO Section 13.4.2.B, the Housing Director shall provide in the Developers Packet, the current values for "B" (median market sales price for comparable unit types of the preceding four quarters) and "C" (purchase price affordable to a moderate-income household with an income of sixty-five percent (65%) of the Boston area SMSA median income). The Housing Director/OHCD shall utilize monthly market sales data published by County Home Data, Banker and Tradesman or other comparable source to determine median market sales prices, and update the information provided to Applicants at least every six (6) months.

**Rules and Regulations Pertaining to Inclusionary Housing**  
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**Section 5 Specific Standards Administered By Housing Director (cont.)**

Because of fluctuations in market values over time, the SPGA reserves the right for the Housing Director to adjust and "in-lieu" fee for a specific project if more than twelve (12) months passes between the date of the SPGA's approval of the special permit with site plan review for inclusionary housing and the date the Applicants seeks to obtain a certificate of occupancy for development) including temporary or certificate of occupancy for the development (including temporary or partial certificates of occupancy.) an Applicant may also request that the fee be determined with information current at the time of application for a certificate of occupancy. Any unpaid fee balance must be paid prior to issuance of any certificate of occupancy for the development.


**J. Incentive to Provide Additional Affordable Units (SZO Sec. 13.5)**

Developers seeking a density bonus for providing more than the required ten percent (10%) inclusionary housing units shall submit a plan for the additional units +as part of the inclusionary Housing Application, demonstrating with SZO Section 13.5. Any Applicant seeking such bonus density should confer with OHCD or Planning Department Staff prior to making his/her preliminary submission required elsewhere in these Rules and Regulations. In review the application, the Housing Director should confer with the Planning Director to verify calculations of affordable and market rate units.


**Rules and Regulations of the Board of Appeals**

**Chapter 4 of The Rules & Regulations of the Permit Granting Authorities**

Date Adopted by Planning Board                      August 7, 2003

Attest:                                                                  
Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals:                      September 10, 2003

Attest:                                                                  
Philip Ercolini, Chairman of the Board of Appeals

## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

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## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 1. Purpose of Rules**

The General Rules and Regulations of the Somerville Zoning Board of Appeals (referred to in this Chapter 4 as the "Board" or "ZBA") are intended to be a reference source to interested citizens, to assure an orderly conduct of business matters by the Board, to provide for the most efficient use of Board and staff time, and to facilitate the decision-making processes of the Board. The Rules are established pursuant to Section 12 of MGL Ch 40A.

Should any provisions contained in this document conflict with the provisions of Chapter 39, Sections 23A, 23B, and 23C of the Massachusetts General Laws as amended (commonly referred to as the Open Meeting Law) or to Chapter 40A as amended, those aforesaid chapters shall govern.

#### **Section 2. Organization**

##### **A. General**

The Board consists of five (5) members and two (2) associate members appointed by the Mayor, subject to confirmation by the Board of Aldermen. The members of the Board shall be appointed for five (5) year terms and associate members shall be appointed for two-year terms, except that the terms of the initial appointees shall be shortened and so arranged that the term of one (1) member and one (1) associate member shall expire annually.

##### **B. Officers**

At the first regular annual meeting, the Board shall elect all Officers of the Board to include a Chairman and a Clerk. Associate members do not participate in this act, unless their participation is required to reach a quorum. Members and associate members are paid for their services, which include attendance at meetings and public hearings, site visits, and all work necessary for deliberating on cases and other Board matters.

##### **C. Chairman: Powers and Duties**

The Chairman shall call for the vote on all matters coming before the Board, and shall himself vote and be recorded. Subject to these Rules, he shall decide all points of order, unless overruled by a majority of the Board in session at the time. He shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances, and subject to these Rules further instructions of the Board, the Chairman shall transact the official business of the Board, supervise the work of the Clerk and the Administrative Assistant, request necessary help, direct the work of all subordinates, and exercise general supervisory power. At each meeting he shall report on all official transactions that have not otherwise come to the attention of the Board.

If the Chairman is absent from a meeting, those Board members present will designate from amongst themselves a chairperson to serve temporarily at such meeting.



## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 2. Organization** (cont)

##### **D. Clerk**

The Clerk shall be a member of the Board, designated by the Board, subject to the Direction of the Board and its Chairman. The Clerk's duties include officially reading petitions and public notices at meetings, for the Board record.

##### **E. Administrative Assistant**

The Board is staffed by an Administrative Assistant and maintains an office at City Hall, 93 Highland Avenue, Somerville, MA 02143. The phone number is 617-625-6600 x2500. The hours are Monday, Tuesday, Wednesday 8:30 - 4:30, Thursday 8:30 - 7:30 and Friday 8:30 - 12:30.

The Administrative Assistant shall be responsible for maintaining records of applications to the Board proceedings, taking minutes of Board meetings, keeping a record of Board proceedings, and filing Board decisions with the City Clerk's office and other parties as required by law.

In any case where the Board of Appeals acts as the SPGA, the Administrative Assistant shall ensure and document compliance with relevant provisions of the SZO (Particularly SZO section 3.2.6) and these Rules and Regulations related to proper notification and advertisement of public hearings.

For special permit petitions, the Administrative Assistant is responsible for ensuring and documenting compliance with SZO Sections 5.3.2 and 5.3.3 as well, and for making a record and filing of the ZBA's proceedings relevant to SZO Section 5.3.5 (and Sec. 5.3.4 if applicable) The Administrative Assistant should maintain on-going communication with the Planning Director in order to coordinate review of special permit petitions and understanding the Planning Board's schedule of review and expectations as to the forwarding of PB reports and recommendations to the ZBA associated with special permit review.

##### **F. Associate Members**

The Chairman of the Board shall designate, in his/her discretion, an appointed associate member to sit on the various cases such that he/she may fulfill the obligations of any member incapacitated by conflict of interest, inability to act, or absence.

#### **Section 3. Meetings**

##### **A. Quorum and Voting Procedure.**

Four (4) Board members shall constitute a quorum. A concurring vote of four (4) members of the Board shall be necessary to reverse any order or decision of any administrative official or to the effect any variance in the application of any ordinance or bylaw. The decision of the Board shall be made within one hundred (100) days after the date of the filing of an appeal, application or petition, except in regard to special permits.

A special permit shall be granted only upon a favorable vote of approval by at least four (4) members of the Board. The decision of the Board on a special permit petition shall be made within ninety (90) days following the date of the public hearing on the petition.

## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 3. Meetings** (cont)

Rules of procedure will generally be governed by Robert's Rules of Order, although the Board may choose to decide upon matters other than those detailed above in a less formal manner.

##### **B. Regular Meetings**

Regular meetings of the Board of Appeals are generally held on alternate Wednesday evenings or at the discretion of the Chairman. Meetings are duly advertised by posting a notice on the City Bulletin Board on the first floor of City Hall at least 48 hours in advance of the meeting, a copy of which will be on file at the City Clerks office.

An agenda indicating the subjects to be discussed shall be drawn up by the Administrative Assistant prior to the meeting. Any Board member may request that an item be placed on the agenda for consideration. The Board may deviate from the agenda with concurrence of a majority of the Board members in attendance. Minutes shall be taken of all Board meetings by the Administrative Assistant.

##### **C. Special Meetings**

Special meetings may be called by the Chairman, or at the request of three (3) members. Written notice thereof shall be given to each member at least 48 hours before the time set, except that announcement of a sufficient of such meeting. Notices shall be posted publicly as required by law.

#### **Section 4. Applications to the Board**

##### **A. Application Form**

Every application or petition for action by the Board shall be made on the official application form (see Chapter 1 of these Rules and Regulations). These forms shall be furnished by the Administrative Assistant of upon request. Forms are also available at the offices of the City Clerk, Inspectional Services Division, and Planning Board. Any communication, purporting to be an application, shall be treated as mere notice of intention to seek relief, until such time as it is made on the official application form and officially filed in the office of the City clerk.

##### **B. Filing Period**

Every application shall be filed and every appeal taken within thirty days from the date of refusal of a permit by, or that date of the order, ruling decision of determination of the building inspector or other administrative official.

##### **C. Fees**

See Chapter 1, Appendix 1A, for the Schedule of Filing Fees.

## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 5. Public Hearings**

##### **A. Notice**

A public hearing held pursuant to the statutory powers of the Board of Appeals shall be scheduled to occur during the regular meeting of the Board. The Board of Appeals shall give due notice of the date, time, and place of its public hearing in accordance with the specific procedures set forth in Chapter 40A, Sec 11 of the Massachusetts General Laws and in accordance with the Somerville Zoning Ordinance (SZO) by:

- 1) Publication of notice in a newspaper of general circulation in the City of Somerville, not less than fourteen (14) days in advance of the hearing, with a second notice the following week; and
- 2) Mailing notice to all parties in interest as defined in Article 2 of the Somerville Zoning Ordinance; and
- 3) Mailing notice to all abutters and abutters-to-abutters within (300) feet of the legal boundaries of a subject property; and
- 4) Posting notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of the hearing.

##### **B. Hearings to be Public**

All hearings shall be open to the public. No person(s) shall be excluded unless he/she is considered by the chairman to be a "serious hindrance" to the workings of the Board.

Minutes shall be taken of all hearings. Additionally, tape recordings shall be made of all public hearings. Citizens may listen to such tape recordings by appointment at the Board of Appeals Office. The Administrative Assistant shall be responsible for the preparation of the minutes of the public hearings. The minutes shall include all votes of the Board and a brief summary of important points and public testimony.

An effort shall be made to limit the length and repetitiveness of comments at public hearings. The Chairman, at his/her discretion, may impose a reasonable per person time limit for comment when a large number of persons desire to participate in the hearing.

##### **C. Representation and Absence**

An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an Applicant, the Board will decide on the matter using the information it has otherwise received (also see Chapter 1 of these Rules and Regulations, concerning failure of an Applicant to appear).

## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 5    Public Hearings** (cont)

##### **D. Order of Business**

The following steps will be the usual conduct of business on a case:

- 1) Reading of petition and legal notices by the clerk, together with presentation of exhibits, if any;
- 2) Applicants presentation;
- 3) Testimony from any elected official;
- 4) Public Testimony;
- 5) Applicant's rebuttal;
- 6) Questions from Members of the Board;
- 7) Site review will be scheduled prior to deliberation and decision-making process.

##### **E. Brief to the Board**

It is recommended that every appeal and every application for a variance or special permit be supported by a brief setting forth in detail all the facts relied upon by the parties. This is particularly desirable in the case of a variance, when the following points, based on SZO Section 5.5.3, should be clearly identified and factually supported:

- 1) There are special circumstance relating to soil conditions, shape or topography of land or structures, which especially affect such land or structures but not affecting generally the zoning district in which it is causing a substantial hardship, financial or otherwise; and
- 2) The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable relief to the owner.
- 3) The granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use nearby buildings, the board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

When deemed appropriate, additional written testimony may be submitted after the public hearing, to allow for further elaboration, within such time thereafter as may be fixed by the Board.

##### **F. Board of Appeals Decision - Filing**

A report and/or decision made by the Board upon a given case must be filed in the office of the City clerk within fourteen (14) days of the date of the decision. Copies of this report and/or decision should be transmitted to other parties in accordance with Chapters 1 and 2 of these regulations.

## **Rules and Regulations of the Board of Appeals**

### **Chapter 4 of the Rules and Regulations of the Permit Grant Authorities**

#### **Section 6. Disposition By the Board**

##### **A. Voting Requirement**

The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. In addition, the record shall set forth clearly the reason(s) for Board decisions.

##### **B. Application Withdrawal**

See Chapter 1 of these Rules and Regulations.

##### **C. Reapplication**

In order to have a petition reheard before the Board of Appeals within two (2) years, the petitioner must request permission from the Planning Board showing new evidence that substantially alters the conditions and circumstances of the original petition. At least four (4) members of the Planning Board must agree that this requirement has been met. Once the planning Board acts favorably towards the changed circumstances, the petitioner may reapply to the Board of Appeals in the normal manner.

##### **D. Mutual Extension of Time**

The required time limits for a public hearing and action upon an appeal, application or petition may be extended by written agreement between the Applicant and the Board of Appeals. A copy of such agreement shall be filed in the office of the City Clerk. Failure by the Board to act within the extended time period as mutually agreed upon shall be deemed to be a grant of the appeal, application, or petition.

#### **Section 7. Amendments and Waivers.**

##### **A. Amendments to the Rules and Regulations**

The Board of Appeals may, from time to time, amend the Rules and Regulations promulgated in this Chapter 4 by simple majority vote, and then filing written copy of the amended Rules with the City Clerk.

##### **B. Waivers**


The Board may waive any of these Rules and Regulations by a concurring vote of four (4) members, except that the Board may not waive those rules and regulations required by M.G.L. Chapter 40A or any other provision of state law or the Somerville charter or Code of Ordinances.

Rules and Regulations of the Planning Board

Chapter 5 of The Rules & Regulations of the Permit Granting  
Authorities

Date Adopted by Planning Board                      August 7, 2003

Attest:

\_\_\_\_\_  \_\_\_\_\_

Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals:      September 10, 2003

Attest:

\_\_\_\_\_  \_\_\_\_\_

Philip Ercolini, Chairman of the Board of Appeals

## **Rules and Regulations of the Planning Board**

### **Chapter 5 of The Rules & Regulations of the Permit Granting Authorities**

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## **Rules and Regulations of the Planning Board**

### **Chapter 5 of The Rules & Regulations of the Permit Granting Authorities**

#### **Section 1. Purpose of Rules**

The General Rules and Regulations of the Somerville Planning Board (referred to in this Chapter 5 as the "Board") are intended to be a reference source to interested citizens, to assure an orderly conduct of business matters by the Board, to provide for the most efficient use of Board and staff time, and to facilitate the decision-making processes of the Board.

Should any provisions contained in this document conflict with the provisions of Chapter 39, Sections 23A, 23B, and 23C of Massachusetts General Laws as amended (commonly referred to as the Open Meeting Law) or Chapter 40A as amended, those aforesaid chapters shall govern.

#### **Section 2. The Planning Board and Planning Department Staff**

The Planning Board consists of five (5) members appointed by the Mayor for five (5) year terms on a staggered basis. Members are paid for their services, which include attendance at meetings and public hearings, site visits, and all work necessary for deliberating on cases and other Board matters. The Board is supported by an Executive Director and Staff to known as the Planning Department. The Planning Department maintains an office on the third floor of City Hall, 93 Highland Avenue, Somerville, MA 02143. The office is open Monday, Tuesday and Wednesday from 8:30 to 4:30, Thursday from 8:30 to 7:30, and Friday from 8:30 to 12:30, and can be reached at (617) 625-6600 x2500.

#### **Section 3. Officers: Powers and Duties**

The Board shall annually, as soon as practical after February first of each year, elect from among its own number a Chairman, Vice-chairman and a Clerk.

The Chairman, or his/her designee, shall chair all meetings and public hearings and shall be responsible for ensuring they are run in an orderly and professional manner. Subject to these Rules, the Chairman shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances, and subject to these Rules and further instructions of the Board, the Chairman shall provide general supervisory guidance to the Executive Director.

The Vice-Chairman shall perform the role and responsibilities of the Chairman when so directed by the Chairman or in the absence of the Chairman due to illness, vacation or other such disability.

The Clerk shall read for the record copies of all legal public notices or petitions at public hearings.

#### **Section 4. Meetings**

##### **A. Scheduling and Posting Meetings.**

Regular meetings of the Planning Board are generally held on alternative Thursday evenings or at the discretion of the Chairman or Executive Director. Meetings are duly advertised by posting a notice on the City Bulletin Board on the first floor of City Hall at least (48)



## **Rules and Regulations of the Planning Board**

### **Chapter 5 of The Rules & Regulations of the Permit Granting Authorities**

hours in advance of the meeting, and by filing a copy of said notice in the City Clerk's office.

An agenda indicating the subjects to be discussed shall be drawn up by the Planning Staff and distributed to Board Members prior to the meeting. Any Board member may request that an item be placed on the agenda for consideration. The Board may deviate from the agenda with the concurrence of a majority of the Board Members in attendance. Minutes shall be taken of all Board Meetings by the Planning Staff and shall be approved or amended by a majority vote of the Board members attending that meeting.

#### **B. Staff Report and Recommendations**

The Planning Staff shall report its recommendations to the Board on all cases or matters involving Board review, such as variances and special permit applications, Zoning Ordinance amendments proposals, master plan and urban plans, and other matters over which the Board members exercise statutory review. These reports shall generally be in writing and be delivered to Board Members in advance of the of the meeting whenever feasible; at a minimum, staff reports will be presented to Board Members at the meeting for which a given topic is scheduled for review. A copy of the Staff report to the Board may be provided to any Alderman requesting such, but only after the report has been delivered to Planning Board members as noted above.

#### **C. Quorum and Voting**

In general, three (3) Board members shall constitute a quorum. Decisions on all matters within the Board's statutory responsibilities shall be made by majority vote of seconded motions or when only three members are present, by unanimous vote. The Board may choose to decide upon matters in a less formal manner. Rules of procedure shall be governed by Roberts Rules of Order.

In matters where Planning Board is the Special Permit Granting Authority, approval of any special permit(s) shall require a favorable vote of at least four (4) members of the five member Board.

#### **D. Site Visit**

When the Planning Board acts as the SPGA, PB members should attempt to visit a given development site before making a determination as to the granting of the relevant relief.

### **Section 5. Public Hearings**

Public hearings held pursuant to the statutory powers of the Planning Board will normally be scheduled to occur during the regular meeting of the Board. Hearings will be advertised in accordance with the specific procedures set forth in the Somerville Zoning Ordinance (SZO) and elsewhere in these Rules and Regulations.

Minutes shall be taken and be approved or amended by a majority vote of board members attending that meeting. The Planning Staff will normally be responsible for the preparation of all minutes taken at the Board, including those dissenting or abstaining, as well as a brief summary of any important points not described in the written staff report and of public comment or testimony, as appropriate. Additionally, tape recordings shall be made of all public hearings. Citizens may listen to such tape recording by appointment at the Planning Department.

## **Rules and Regulations of the Planning Board**

### **Chapter 5 of The Rules & Regulations of the Permit Granting Authorities**

#### **Section 5. Public Hearings (cont)**

An effort shall be made to limit the length and repetitiveness of comments at public hearings. The Chairman or his/her designee may exercise discretion to impose a reasonable per person time limit for comment when a large number of persons desire to participate in the hearing.

#### **Section 6. Planning Board Reports**

Any report or recommendation which has been formally endorsed by and voted upon by the Planning Board may be obtained by any interested party after the report has been approved by the Director. The Director may choose to require the inquiring citizen to fill out a "Freedom of Information" request.

#### **Section 7. Amendments and Waivers**

##### **A. Amendments**

The Planning Board may, from time to time, amend its own Rules and Regulations (promulgated herein this Chapter 5) in accordance with its normal voting procedures, and by filing a written copy of the amended Rules with the City Clerk. Should the Board wish to amend any of the "principal body" Rules and Regulations that affect all SPGAs within the City of Somerville, including amendment of the schedule of filing fees, such amendments shall be made in accordance with the stipulations of Chapter 1 of the Rules and Regulations.

##### **B. Waivers**

The Board (assuming a quorum) may by a majority vote of the members present and voting or, if only three members are present, by unanimous vote, waive any of these Rules and Regulations except where said waiver would conflict with Massachusetts General Laws.

Rules and Regulations Pertaining to Site Plan Approval

Chapter 6 of the Rules and Regulations of the Permit Granting Authorities

Date Adopted by Planning Board August 7, 2003

Attest: Kevin Prior  
Kevin Prior, Chairman of the Planning Board

Date Adopted by the Board of Appeals: September 10, 2003

Attest: Philip J. Ercolini  
Philip Ercolini, Chairman of the Board of Appeals

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

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## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 1. Planning Board Serves As Permit Authority**

The Planning Board shall serve as the review authority for site plan approval. The Planning Board will review and grant site plan approval in accordance with SZO Section 5.4 and the Rules and Regulations herein. The Planning Board may specifically delegate authority to the Planning Director to grant minor site plan approvals, upon adoption of such a provision in this Chapter of the Rules and Regulations.

#### **Section 2. Planning Director Coordinates Procedural Review**

The Planning Director, or his/her staff designee, shall administer the procedural standards for all site plan approval petitions as established in SZO Section 5.4 and these Rules and Regulations. The Planning Director shall provide and application form for site plan approval, which should inform the Applicant of information requirements and recommended procedures. The Planning Director, or his/her staff designees, should be available to meet with Applicants during normal business hours.

#### **Section 3. Minor Projects (SZO Sec. 5.4.5)**

##### **A. Establishment of Minor Project Classification**

The Planning Board shall normally conduct full review of development projects requiring site plan approval. However, as allowed under SZO Section 5.4.5, the Planning Board hereby establishes a class of minor development projects under site plan approval for which full Board review shall not be necessary, unless requested by at least two (2) members of the Board. The minor project classification is limited to the following cases where special permit review, special permit with design review, or special permit with site plan review are not required under the SZO:

1. New Structures or additions/extensions to existing structures of up to five hundred (500) gross square feet in area.
2. Applications for façade alterations only, up to five hundred (500) linear feet of building face.
3. Mechanical enclosures and horizontal improvements (parking lots, accessways, walkways, landscaping and the like), unless the horizontal improvement involves a new or relocated curb cut into a public street or significant changes in vehicle circulation.
4. Establishment or change in use within a lawfully existing structure, where there is no increase in the structure's square footage in area.
5. Subdivision resulting in the creation of only one (1) additional lot (e.g. an existing lot divided into two lots—creating one new lot).

Site plan approval for the above listed minor projects shall not be subject to public hearing requirements. Minor projects shall, however, be subject to full compliance with approval standards and criteria of SZO Section 5.4.6 and all other applicable standards of the SZO.

##### **B. Designation of Planning Director Authority**

For Administrative efficiency, the Planning Board designates the Planning Director as the review authority for minor development projects as noted in "A" above. The Planning Director shall determine the applicability of the minor site plan approval classification to any given development proposal.

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 3. Minor Projects (SZO Sec. 5.4.5) (cont)**

##### **C. Application for Minor Project Site Plan Approval**

Application for minor site plan approval shall be made under the normal procedures for submission and filing noted in these Rules and Regulations, with the following exceptions:

1. The Planning Director shall have authority to waive any information requirements he/she deems unnecessary to determine compliance with the standards of SZO Sec. 5.4.6.
2. The Official filing with the City Clerk requires only two (2) copies of the site plan submission, which the City Clerk will transmit to the Planning Director after officially stamping.

##### **D. Review and Action of Application**

The Planning Director shall make every effort to expedite the review of a minor project application within ten (10) business days of official filing. The Director shall provide a written record of his/her review of the application and decision to the Applicant, including any conditions attached to an approval or reasons for denial as stipulated in SZO Section 5.4.4.C. The Planning Director shall submit a report to the Planning Board at its first subsequent regular meeting of any action taken regarding site plan approval of minor projects.

##### **E. Appeals**

An Applicant for minor site plan approval may appeal the Planning Director's decision before the Planning Board by submitting a written request noting what aspect(s) of the Director's decision is disputed. Such and appeal shall effectively constitute a request for full Planning Board consideration of site plan approval for the development project, and as such is subject to the normal public hearing and due notice requirements set forth herein (Sections 5 & 6 of this Chapter 6). If an Applicant is dissatisfied with any action taken by the Planning Board, he/she may further pursue the normal appeals available and as set forth in Article 3 of the SZO.

#### **Section 4. Submission Procedure (reference SZO Sec. 5.4.3)**

##### **A. Preliminary Meeting with the Planning Director**

Applicants seeking site plan approval, particularly for larger development projects, are strongly encouraged to meet with the Planning Director (or his/her designated staff) at least once a week prior to official filing. This will help to expedite the ensuing process by determining procedures, information requirements, level of review necessary, and applicability of review standards, criteria and design guidelines. When meeting to make a formal submission, the Applicant should schedule a meeting with the Planning Director to insure all applicable information is in satisfactory form for official filing. This will minimize potential delays to the Applicant or disapproval of an application as incomplete.

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 4. Submission Procedure (reference SZO Sec. 5.4.3) (cont)**

##### **B. Official Filing**

The Applicant shall file four (4) copies of the required site plan submission (see "C" below) in the office of the City Clerk, during normal business hours. The stamp of the City Clerk shall establish the official date of filing. The Clerk shall forward two (2) copies of the submission to the Planning Board (in care of the Planning Director), one (1) copy to the Director of Traffic and Parking, and one (1) copy to the City Engineer. Only one (1) copy of the specialized items such as photos or architectural material samples shall be required; these should be presented separately at the offices of the Planning Board, which will review and forward the materials to any other board or agency as appropriate.

##### **C. Minimum Submission/Information Requirements**

Each site plan submission shall include the minimum items listed below. The information submitted shall document compliance with the standards of SZO Sec. 5.4.6:

- 1) Completed application form the site plan approval;
- 2) \$250.00 filing fee (\$50.00 for minor site plan approval or when site plan approval is requested simultaneously with a special permit application) in cash or check payable to the "City of Somerville";
- 3) A written statement explaining how the project complies with each standard of SZO Sec. 5.4.6, referencing additional documents, plans, drawings, photos, evaluations etc., as necessary;
- 4) Documentation of property ownership, such as a deed;
- 5) Scaled (minimum 1" = 50') site plan with north arrow showing:
  - a) Existing and proposed property lines, road rights-of-way, easements (utility, access, etc.);
  - b) Footprint/roof area of all existing and proposed buildings within fifty (50) feet of the proposed development;
  - c) Location of existing and proposed paved areas within fifty (50) feet of the proposed development;

Note: THE PLAN SHALL BE PREPARED BY A REGISTERED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR PROFESSIONAL LAND SURVEYOR, AND THE STAMP OF SUCH REGISTERED PROFESSIONAL SHALL APPEAR ON THE PLAN. THIS REQUIREMENT MAY BE WAIVED IN THE CASE OF A MINOR SITE PLAN APPROVAL OR IN ACCORDANCE WITH SECTION 5.4.7.1 OF SZO.

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 4. Submission Procedure (reference SZO Sec. 5.4.3) (cont)**

- 6) **Subdivision.** In the case of a subdivision, the submission shall include the above items plus the following:
  - a. Scaled (min. 1" = 30') boundary survey and subdivision plot, showing north arrow, date, and prepared by a Massachusetts-registered Professional Land Surveyor, upon which the seal and signature of such professional shall appear. The subdivision plot shall indicate:
    1. the total calculated land area of the subdivided lands in total;
    2. the calculated land area of each lot;
    3. boundaries, angles, bearing and dimensions of all lots;
    4. existing and proposed block and lot numbers;
    5. notation of specific reference plats, if applicable;
    6. description of field control points, monuments, or markers for locating lot corners.
  - b. Statement as to the proposed use of the new lots and the purpose for subdividing;
  - c. A plan showing location of nearest existing and proposed fire hydrant(s);
  - d. Proposed deed restrictions and covenants, if any, especially as related to future development on the subdivided lots complying with provisions of the SZO, particularly Section 5.4.6.

#### **D. Requirement for Additional Information in Application**

Although the above minimum information will often be sufficient, there may be a need for more detailed or additional information on any specific project. The actual final information requirements will vary for each individual site plan approval, dependent on the size and scope of the proposed development. The applicant should submit additional information indicated as pertinent by the Planning Director in discussion at the preliminary meeting. The Applicant may also submit information he/she feels will aid the Planning Board in reviewing compliance with the SZO Sec. 5.4.6. After the application has been officially filed, the planning Board and/or Planning Director may request additional information beyond that submitted by the Applicant, but only that which is reasonably related to demonstrating compliance with a specific standard or criteria of Section 5.4.6. Examples of materials, which may be pertinent to a given project and requested of the Applicant include:

- 1) Scaled boundary survey/plot plan certified with the seal of a Professional Land Surveyor (or in the case of application to the Planning Director for minor site plan approval, a mortgage plot plan or similar scaled drawing) indicating total land area, boundaries, angles, bearings, and dimensions of site and its boundaries, north arrow;
- 2) Existing natural or vegetative features, and proposals for alterations thereto, including as appropriate:
  - a. Topographic information at not less than two (2) foot contour intervals, showing both existing grade and proposed changes to grade (if applicable);
  - b. General drainage patterns and plans, including drainage inlets/outfalls, and proposed erosion and sedimentation controls;
  - c. Soil survey;



## Rules and Regulations Pertaining to Site Plan Approval

### Chapter 6 of the Rules and Regulations of the Permit Granting Authorities

#### Section 4. Submission Procedure (reference SZO Sec. 5.4.3) (cont)

d. Hydrogeologic evaluation and program storm water management (when large scale site work is required and site drainage altered);

NOTE: GRADING AND RAINAGE PLANS MAY BE REQUIRED TO BE PREPARED BY A MASSACHUSETTS-REGISTERED PROFESSIONAL ENGINEER OR LANDSCAPE ARCHITECT, WHOSE SEAL SHALL APPEAR ON SAID PLANS.

- 3) In the case of development including installation of new utilities or modification of existing utility systems, the submission shall also include information as to location of existing and proposed utilities and mechanical systems (except those fully enclosed within a building) and location of nearest and proposed fire hydrant(s). Subsurface water and sewer plans shall be prepared by a registered Professional Engineer, whose seal shall appear on said plans.
- 4) Architectural elevations for any new structure and any existing structure proposed to be modified, at a scale not less than 1/16" = 1', specifying materials, colors and finishes. Where new construction is proposed immediately adjacent to or attached to existing structure, the application should included information on the design context by showing a portion of the attached structure within the elevation drawing, providing a photographic montage of the existing buildings, or similar study. For larger projects, the Planning Board may request a photographic study of the neighborhood, up to a distance of three (300) feet from the site perimeter, or a three-dimensional model of proposed buildings and the surrounding physical context;
- 5) Landscape plans, including schedule of materials and planting specifications.
- 6) Building shadow analysis
- 7) Paving plans and specifications
- 8) Signage plans and specifications
- 9) Exterior lighting plans showing location and type of any exterior lighting fixtures, and location and type of any exterior lighting fixtures such as those within open or partially open garage structures, illuminated within open or partially open garage structures, illuminated signage and the like, but excluding normal interior lighting.
- 10) Traffic circulation and parking plans showing location, layout, and dimensions.
- 11) Traffic impact analysis (for projects over 25,000 gross sf of new construction) detailing existing and estimated peak hour traffic volumes and their effects on capacity and operating conditions of the nearest collector and arterial streets.

Applicants may request to be reviewed based on the information they submit, regardless of any additional information requested by the Planning

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

Board or the Planning Director. However, an incomplete application may be grounds for denial of the site plan approval, per SZO Section 5.4.4. Applicants have a right to appeal any Planning Board decision regarding an incomplete application to the Board of Appeals.

#### **E. Request for Simultaneous Review when Submitted with a Special Permit Petition.**

In accordance with SZO Section 5.4.4.B and with Section 6B below, whenever a site plan approval application is made for a site or use also requiring some form of special permit, and the Planning Board is the SPGA, an Applicant may request that the Board review both the site plan application and special permit application simultaneously. An Applicant must request the simultaneous one-step review at the time of official filing of his/her application.

### **Section 5. Staff/Administration review of Application**

#### **A. Review by Planning Director and solicitation of Comments.**

After official filing of the site plan application by the Applicant, the City clerk shall send two (2) stamped copies to the Planning Director. The Planning Director shall review the site plan approval application under all requirements of SZO Section 5.4. The Planning Director shall solicit the comments of the Director of the Office of Housing and Community Development (hereafter "OHCD Director"), and may give one (1) copy to the OHCD Director. The Planning Director shall also communicate with the Director of Traffic and Parking, and the City Engineer, and ascertain their concerns, if any. The Planning Director may, in his/her discretion, contact other relevant agencies affected by the proposed development to solicit their input on concerns such as traffic and parking, fire safety and protection, landscaping, coordination of infrastructure improvements and the like.

#### **B. Schedule of Public Hearing**

The Planning Director shall schedule before the Planning Board a public hearing within forty within forty-five (45) days of the official filing date of the site plan application, and shall notify all parties in interest as defined in SZO Article 2 and as stipulated in Section 11 of the MGL Chapter 40A, and in accordance with the Boards normal hearing notification procedure (see chapter 5 of these Rules and Regulations). Such notice shall include a brief description of the proposed development, and be sent via U.S. mail not less than fourteen (14) days prior to the scheduled hearing.

If the Applicant has submitted a petition for site plan approval simultaneously with a petition for a required special permit, and has requested simultaneous review of both applications at a combined hearing, the public hearing will then be scheduled and advertised in accordance with the requirements for the special permit petition (SZO Sections 5.3.2 and 5.3.3). The public advertisement should clearly identify that the hearing will concern both a site plan approval and a special permit petition.

#### **C. Report from Planning Director**

The Planning Director shall prepare a report to the Planning Board with his/her analysis and recommendations. This report should generally be forwarded to the Planning Board at least three (3) days prior to the scheduled review and public hearing. Planning Board members should try to visit the site of the proposed development prior to the hearing, so as to be familiar with its context.

## **Rules and Regulations Pertaining to Site Plan Approval**

### **Chapter 6 of the Rules and Regulations of the Permit Granting Authorities**

#### **Section 6. Planning Board Review and Action (Reference SZO Sec 5.4.4.)**

##### **A. Conduct of Public Hearing**

The Planning Board shall conduct the public hearing on the site plan approval petition under its normal rules and procedures for public hearings (see Chapter 5 of these Rules and Regulations), including establishment of the necessary quorum of members and restrictions on time allotted to individuals wishing to comment of the application.

##### **B. Combined Hearing with Special Permit Petition**

If an Applicant has requested simultaneous hearing and review of site plan approval and special permit petitions (in those cases for which this is applicable), this request shall generally be honored for the purpose of administrative efficiency. This will eliminate the potential need for two separate hearing dates, although the Planning Board shall take one separate action on the site plan application and another separate action on the special permit application. The Planning Board may also allow the Applicant to submit in his/her site plan approval application only that information not otherwise submitted in the special permit application, in order to avoid redundancy. The Planning Board shall consider this one-step review only by written request of the Applicant, in which case the Applicant agrees to waive the normally specified time limits for site plan approval review and accepts the applicable time limits for review and sanction under the appropriate type of special permit application stipulated in Section 5.3 of the SZO.

By requesting the one-step review and agreeing to its terms above, the Applicant shall be entitled to a fifty percent (50%) reduction in the normal site plan approval application fee.

##### **C. Planning Board Action**

In accordance with the SZO Section 5.4.4.C, the Board shall approve the site plan application, or approve such with conditions related to standards of Section 5.4 or the district within which the site is located, unless the site plan application is found to be deficient in one of the three (3) specified items under Section 5.4.4.

When an application is deemed generally acceptable, but is of a nature where specific approval of each applicable standard or criteria of SZO Section 5.4.6 cannot be reached (such as in subdivision, where all physical site development plans may not be finalized at the time of the plot recording), the Planning Board may attach a condition (s) requiring recordation of deed restrictions or covenants ensuring future compliance with specifically applicable standards of SZO Section 5.4.6.

Site plan approval is a process designed to insure public review and the benefit of public comment with respect to relevant architectural and site planning standards and guidelines, but not in any manner defined as a review of the appropriateness of a given proposed use. Any conditions attached to approval, or reasons for withholding approval shall be specifically related to the standards and guidelines of the SZO but exclude those designed for regulation and review of use.

##### **D. Document of Decision**

Within ten (10) business days of the Planning Board's action on the site plan approval petition, the Planning Director shall issue a written record of such decision, including a detailing of the findings and analysis that were the basis for the decision, including a detailing of the findings and analysis that were the basis for the decision. The written record shall be filed in the office of the City Clerk, and a copy transmitted to the Applicant and to any party in interest requesting a copy.

## **Rules and Regulations Pertaining to Site Plan Approval**

Chapter 6 of the Rules and Regulations of the Permit Granting Authorities

### **Section 6. Planning Board Review and Action** (cont)

Although not mandatory, Applicants are strongly encouraged to file a copy of the written decision in the Middlesex registry of Deeds. This affords a secondary public record on the decision, for the protection of those having an interest in the property question

#### **E. Appeals of the Planning Board Decision**

Appeals of the Planning Board decision on a site plan approval petition may be made in accordance with any applicable statute of the Massachusetts General Laws.

#### **F. Enforcement**

The Planning Director shall be responsible for ensuring that any conditions or requirements of the site plan approval are adhered to. The Planning Director shall work with the Superintendent of Inspectional Services as necessary in taking enforcement action against a violation of a site plan approval, under the enforcement provisions set forth in Article 3 of the SZO.